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Invisible Barricades: Civil Society and the Discourse of the WTO *

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Abstract: Concerns about the legitimacy and accountability of international institutions have prompted a sizable literature on the potential of civil society to help democratize global economic governance. Attention has primarily focused on the institutional factors impacting civil society participation in global governance. In this article, however, I point to the existence of yet more fundamental barriers operating at the level of discourse. I use critical discourse analysis (CDA) to analyze the discourse of the World Trade Organization (WTO), focusing on a key text in which it attempts to engage directly with the concerns of civil society, supported by a broad range of additional data sources, including documentary materials, interviews, and observation. Drawing on the case of the WTO, I argue that the discourse of the global governance institutions can itself act as an ‘invisible barricade’ preventing the meaningful inclusion of civil society in policy debates and deliberations.

Keywords: Global governance, international organizations, globalization, democracy, civil society, World Trade Organization (WTO), critical discourse analysis (CDA).

Introduction

Organizations such as the World Trade Organization (WTO), International Monetary Fund (IMF), and World Bank are central pillars of the existing regime of global governance and have played a key role in driving and shaping economic globalization. Their considerable authority, however, has raised concern about legitimacy, public accountability and the lack of democratic controls on these institutions. This has, in turn, generated debates about whether and how these powerful international institutions, and the process of globalization itself, can be democratized. Both academics and policymakers have placed significant emphasis on civil society and its potential role in fostering greater democracy at the global level, prompting considerable interest in how civil society is being incorporated into global governance.

Although international institutions have increased their engagement with civil society and now frequently point to such interaction as evidence of their openness, a central concern of the academic literature has been identifying and explaining the factors that constrain or enable meaningful civil society participation. In the existing scholarship, however, the focus has been primarily on institutional or structural barriers. In this article, I point to the existence of yet more fundamental barriers operating at the discursive or ideational level, which can constrain civil society engagement with the global governance institutions. I construct this argument by examining the case of the WTO, a core institution in global economic governance. Departing from a more traditional institutionalist approach, I instead focus on the discourse of the WTO.

There has been increasing interest in ideational aspects of global trade politics. Recent studies have highlighted the role of ideas and discourse in: constituting the WTO as an institution and legitimizing its authority (Cho 2014; Strange 2013); creating momentum for trade liberalization, while limiting policy debates on trade (Siles-Brügge 2013, Wilkinson

2009); constraining opportunities for civil society influence in EU trade policymaking (Hannah 2011) and shaping contestation surrounding its trade agreements (Del Felice 2014; Trommer 2014); enabling actors to gain leverage and undermine opponents in WTO negotiations (Conti 2011; Eagleton-Pierce 2012; Hopewell 2013; Wilkinson 2014); and giving rise to the structural power of expertise in trade governance (Hannah, Scott and Trommer 2015).

This article contributes to the growing constructivist literature on trade by examining the role of discourse in the WTO's interaction with global civil society. It employs a fine-grained, micro-level analysis to illuminate the exclusionary practices at work in the WTO's discourse. The analysis centers on a key text in which the WTO attempts to engage directly with civil society, supported by a wide range of additional data sources including documentary materials, interviews, and observation. Using critical discourse analysis (CDA) to examine the discursive strategies employed by the WTO, I focus on how it positions itself and civil society, how it frames the issues under debate, and its use of silences. Drawing on the case of the WTO, I argue that the discourse of the global governance institutions can itself act as an 'invisible barricade' preventing effective communication and consultation with civil society and blocking alternative perspectives from being introduced into policy deliberations.

Democratizing global governance through civil society engagement?

The expansive authority of international institutions has prompted considerable interest in the prospects for a more democratic system of global governance and whether and how global public policy and international institutions can be democratized (Archibugi and Held 2011; Falk 2014). There is broad consensus that many of the global governance institutions, and particularly the multilateral economic institutions, suffer from a democratic deficit – that is, a deficit of democratic legitimacy and accountability (Scholte 2011). The WTO, for example, has long been characterized by a culture of highly secretive, elite-based

decision-making and hostility to direct stakeholder involvement (Hopewell 2015b). In this context, civil society has been identified as a potential democratizing force (Gill 2008; Scholte 2011). Many argue that the participation of civil society in global governance improves openness, transparency, and accountability, making decision-making processes more visible and exposing policy choices to public scrutiny (Wilkinson 2014). Civil society can also provide alternative norms, values and discourses, voicing opinions and perspectives that have been absent or marginalized from policy deliberations, and broadening the range of issues and scope of debate, thereby promoting deliberative democracy and making international institutions more responsive to popular concerns (Hannah 2011, 2014; Murphy 2012).

The Habermasian ideal of democratic public discourse provides a normative model for such deliberation and a standard against which actually-existing global governance can be measured. It conceptualizes the public sphere as a site of rational-critical discourse, where public opinion is formed based on reasoned debate and deliberation, rather than manipulation of opinion, and channeled to influence, critique and shape governance (Habermas 2005). As Young (2002) argues, a democratic dialogue requires that participants are willing to listen respectfully to alternative perspectives, making an effort to understand them without preemptive judgement, and with an openness to changing their own views. An important marker in assessing the global governance institutions' engagement with civil society is thus whether they are fostering or foreclosing such a dialogue.

Driven by external and internal pressures, most international institutions have put in place measures to facilitate increased civil society involvement. Such changes have included: increasing the disclosure of information, increasing staff and funding for engaging with civil society, providing accreditation for civil society actors, granting observer status in policy meetings, establishing official civil society advisory committees, and "mainstreaming" civil

society organizations into functional committees and bodies (Scholte 2011). Global governance institutions now routinely point to these initiatives and their resulting interaction with civil society as evidence that they are open and democratic. Most accounts have characterized these initiatives as an important step towards reducing the democratic deficit in global governance. Indeed, the primary critique in the academic literature is that these mechanisms have not gone far enough and should be further expanded and institutionalized (Kapoor 2004; Mortensen 2006; Scholte 2011). In identifying the remaining barriers, the focus has centered on how far specific international organizations have taken these types of reforms and whether they have been formally institutionalized. It is generally taken for granted that these institutional initiatives are a sign of “openness” and result in meaningful civil society participation.

The key question, however, is how effective such mechanisms are in fostering real dialogue with civil society and enabling alternative perspectives to be incorporated into the policymaking process. In the analysis that follows, I show that a narrow emphasis on the institutional aspects of civil society incorporation neglects the existence of significant impediments operating at the discursive or ideational level. Using the case of the WTO, I argue that attention to discourse reveals far deeper obstacles to effective civil society participation in global economic governance.

The WTO and its relationship to civil society

Established in 1995 as a successor to the General Agreement on Tariffs and Trade (GATT), the WTO sets and enforces the rules of the international trading system. The organization includes a small secretariat charged with facilitating its work and providing technical and administrative assistance. While the GATT was a comparatively weak organization, with limited power over its members and a narrow focus on reducing tariffs, the establishment of the WTO initiated a major transformation in the world trading system:

expanding the scope of trade rules into new areas, requiring the harmonization of domestic policies and regulations, and instituting a binding dispute settlement mechanism (Mortensen 2006).

As the scope and power of the WTO expanded, it became a flash point for criticism of neoliberal globalization. Civil society actors expressed concerns about the effects of trade liberalization on human rights, poverty, inequality, development, the environment, labor standards, and health. They also criticized the WTO's policymaking process as exclusionary, undemocratic, and lacking in transparency and accountability. Such criticism reached its height at the WTO's 1999 Ministerial Meeting in Seattle. The meeting, intended to launch a new round of trade negotiations, was met with mass demonstrations involving tens of thousands of protesters. Physical barriers were erected to separate and protect trade policy makers from civil society protesters in the streets. The 'Battle of Seattle' brought the WTO, which had previously been virtually invisible to the general public, into the spotlight and widespread public scrutiny for the first time.

In response, the WTO substantially increased its efforts to inform and engage with civil society. It instituted measures to: liaise with civil society, provide briefings, organize symposia and workshops, accept *amicus curiae* briefs from civil society in dispute settlement proceedings, host online discussion forums and live "chats" with the Director-General, de-restrict some documents and increase dissemination of information through its website. These measures would purportedly open-up the trade policymaking process and render it more transparent, participatory and inclusive, countering perceptions of a democratic deficit.

These new institutional arrangements appear to have given civil society greater access to the WTO. However, I contend that powerful obstacles nonetheless remain, which block the meaningful inclusion of civil society in policy debates and deliberations. In the analysis that follows, I show how the discourse of the WTO itself acts as an 'invisible barricade' –

mirroring the physical barriers erected to separate trade policy makers from protesters at Seattle – preventing effective communication and consultation with civil society and barring alternative perspectives from being introduced into the policymaking process.

Methodology and data

This study draws on a large data corpus, incorporating a wide range of WTO documents pertaining to its relationship with civil society, such as public relations materials, speeches, press releases, information on its website, internal memoranda and policy directives, and materials from the annual WTO Public Forums. The corpus also includes data gathered through field research at the WTO in Geneva, as well as in Washington, Ottawa, Montreal, New Delhi, Sao Paulo, Brasilia, and Beijing, between 2007 and 2010. I interviewed 157 respondents, including 15 secretariat officials, 51 member-state negotiators, and 45 civil society representatives. I also conducted over 300 hours of direct observation at the WTO Public Forum and numerous conferences, workshops and strategy sessions organized by the secretariat, states, and NGOs.

The analysis presented here pays particular attention to one specific document – an official document in which the WTO attempts to address concerns from civil society, entitled “Top 10 Reasons to Oppose the World Trade Organization: Criticism, yes... misinformation, no!” (hereinafter the “Dialogue Text”). In this text, the WTO sets out ten concerns raised by civil society and responds to each one.¹ The document was produced by the WTO Secretariat, which is charged with managing the institution’s relationship with global civil society, in advance of the Seattle Ministerial and disseminated via the WTO website for over a decade. Despite its age, this remains a critical document for understanding the WTO’s orientation towards civil society. First, what makes this text unique and particularly fruitful for analysis is its *dialogic quality*: it is structured as a dialogue between the WTO and civil

¹ Full document available at: www.wto.org/english/thewto_e/minist_e/min99_e/english/misinf_e/00list_e.htm

society, with a comment-and-response format. The text therefore provides an invaluable opportunity to see the WTO place itself in direct dialogue with civil society. Second, this is a foundational text that shaped the future trajectory of WTO discourse directed at the public and civil society. It has served as a model for subsequent WTO public communications, with many of the messages, statements, and exact wording from this text reproduced in identical form in later WTO documents and speeches. Consequently, the discourse contained in the Dialogue Text is highly representative of that found elsewhere in the data corpus. In addition, beyond this important text, the following analysis also draws on an extensive array of other exemplars of the WTO's discourse, spanning the diversity of data collected, including documents, interviews and observation.

To examine the discourse of the WTO, I employ critical discourse analysis (CDA) (Fairclough 1992; van Dijk 1993; Wodak 2005). As an approach that looks at discourse within larger social and political structures and in its relationship to inequality, power and domination, CDA is particularly well-suited to the analysis of global governance institutions. CDA views discourse as a form of social action, produced by actors rooted in the social world, with specific intents and strategies (Wetherell 2001). It thus provides a valuable means of examining the productive aspects of discourse and the work that it does. I center my analysis on three key aspects of the WTO's discourse: its use of positioning, framing, and silences.

Positioning is the discursive process whereby actors are located in a narrative, or story line (Davies and Harré 1990: 264). This can include both “interactive positioning”, in which what one actor says positions another, and “reflexive positioning”, in which an actor positions itself. Positioning can be used strategically in an effort to claim the “high ground” in a dispute, ensuring that one's opponents and their statements will be interpreted according to a story line that suits one's own case (Harré and Slocum 2003). Such positioning is not

limited to individuals, but can also involve institutions and large-scale social entities, such as the WTO.

Framing works to give representations a particular slant. A frame is a “socially based, abstract, high-level knowledge structure that organizes certain information about the world into a coherent whole.”(Huckin 2002: 354) Once a frame is established, it provides the lens through which information and events are viewed and understood. Writers and speakers commonly frame issues by selectively mentioning certain things but not others, and therefore silences play an important role in framing.

Silences are a critical component of discourse. As Barbara Johnstone (2007: 10) shows, “in addition to being shaped by what *is* said, the worlds evoked and created in discourse also are shaped by silence: by what *cannot be* said or *is not* said.” Silences represent information that could have been given, but is selectively left out (Van Dijk 1986; Huckin 2002). Discourses are organized around such practices of exclusion: the apparent “naturalness” of what is said – the sense that it is obvious or self-evident – is a result of that which has been excluded (Mills 1997). Often the most important aspects of discourse lie in the unsaid, the selective silences (Huckin 2002).

In analyzing the discursive strategies employed by the WTO, I focus on how it positions itself and civil society, its framing of the issues under debate, and the silences in its response to civil society.

Analyzing the discourse of the WTO

The WTO's use of positioning

The WTO uses discourse to position both itself and civil society in very specific ways. Importantly, the WTO positions itself as open to criticism and impartial. Beginning by analyzing the Dialogue Text, where the WTO attempts to tackle the concerns of civil society head on, its subtitle states “Criticism, yes... misinformation, no!” and the introduction

asserts that “The WTO and its members welcome the proliferation of comment and criticism.” It even provides links to two “critical [web]sites” so that readers “from around the world can see these opinions for themselves.” The WTO thus appears remarkably open and reasonable in its willingness to consider criticism. By positioning itself in this way, the WTO is engaging in “stake inoculation” (Potter 1997; Wetherell 2001), efforts directed at inoculating against the appearance of having an interest or bias in one’s account, as a pre-emptive strategy aimed at preventing the potential undermining of one’s argument. In the Dialogue Text, stake inoculation creates the impression that the WTO is giving fair and impartial consideration to concerns from civil society. Although the WTO ultimately rejects every one of the ten criticisms raised by civil society, this is presented as the result of balanced and rational consideration and its superior knowledge and expertise. Positioning itself as open and unbiased, stake inoculation enables the WTO to mask the politicized nature of its own discourse and increase the credibility of its claims by presenting them as fair, impartial truth or fact.

However, the WTO’s claims to openness and neutrality can be evaluated by examining the way in which it actually engages with arguments from civil society. Throughout its discourse, the WTO positions itself in the role of the omniscient expert. In each exchange in the Dialogue Text, the argument from civil society is labeled “The accusation,” while the WTO’s reply is titled “The reality.” The WTO positions itself not as equal to its critics, but above them, assuming the authority to evaluate the “evidence” and establish the “facts.” The WTO thus situates itself in the privileged role of arbiter with the power to evaluate the critic’s arguments and determine their truth or falsity. While the WTO uses positioning to build its own authority, it also makes use of positioning to delegitimize and undermine challenges and contestation from civil society. It is significant that critical arguments made by civil society are cast as “accusations,” as the term is a highly loaded one:

while one *engages* with arguments, one *defends* against accusations. From the start of the Dialogue Text, the WTO characterizes arguments from civil society in such a way that it is unlikely to engage with them, but instead to attempt to shield against or discredit them. The way in which the WTO positions the arguments from civil society sets the stage not for dialogue or effective communication but for an act of rhetorical self-defense.

Furthermore, the tone of the WTO's response is highly dismissive of the arguments from civil society. In contrast to the purportedly factual information presented by the WTO ("The reality"), the arguments of civil society are identified in the document merely as "opinions" and "comments." Indeed, they are further described as "misinformation," based on "factual errors," "incorrect information," and "downright falsehoods." The visuals and layout of the Dialogue Text reinforce the message that civil society concerns are not to be taken seriously: the statements from civil society are set on a background resembling a brick wall, with torn, rough edges, suggesting associations with graffiti. Remarkably, not once throughout the entire Dialogue Text is there any acknowledgement that the concerns voiced by civil society have any legitimacy or validity.

Shifting to other examples of WTO discourse, similar patterns are evident. The dismissive attitudes of trade officials towards civil society actors and the issues they raise are equally apparent in interviews:

the level of misunderstanding was just about, well, sky-high. It was really almost 100%... there was kind of a visceral reaction against [the WTO]. And we had things like the Seattle schmozzles and so forth – demonstrations of one kind or another, from people who basically believed it was all kinds of monstrous things.²

it wasn't our job [the WTO Secretariat's] to kind of jump into the debate and say 'no, we don't cause AIDS [laughs], and no, we're not the cause of most of the ills of the world, and no, we're not killing Indian farmers, and this is not our business, etc.'... if they're critical of it [the WTO], well that's their right, but at least they should know what to criticize [laughs].³

² Interview, July 2007.

³ *Ibid.*

The arguments advanced by many civil society actors are presented as ridiculous – the product of a lack of knowledge or understanding of economics and the WTO – or attributable to something more malicious. In a speech opening the WTO’s first Public Forum, for example, then Director-General Mike Moore referred to the Seattle protesters as “mindless, undemocratic enemies of the open society” whose “slogans are trite, shallow and superficial.”(WTO 2001)

The WTO clearly does not grant civil society equal status as interlocutors. Its claims that it is open to criticism are, in fact, contradicted by its actual treatment of critical arguments from civil society. The WTO represents itself as open to criticism, neutral, unbiased and expert, while its critics’ arguments are represented as accusations and misinformation that are false and even slanderous against the WTO. This discursive technique has the effect of discrediting and discouraging challenges and contestation from civil society. It also sets up the response of the WTO to critical arguments from civil society as one of defense rather than dialogue, thereby lessening the likelihood that the concerns they raise will be brought into WTO debates and deliberations.

The WTO’s framing of trade issues

Throughout its discourse, the WTO frames trade issues as technical matters of fact, evidence, and expertise. In the Dialogue Text, for instance, it characterizes the points raised by civil society as “accusations” and “misinformation,” stating that “those making the accusations listed here have quite simply got their facts wrong” and that these criticisms are “completely false.” Conversely, the WTO labels its own response to civil society as “the reality,” which it frames with frequent references to “the facts” and “evidence.” Its response is structured as a series of declarations (such as “the WTO ... is ultra-democratic”, “the WTO is run only by governments”), which, as Johnstone (2007) indicates, is a discursive strategy used to inhibit the possibility of disagreement and discourage debate. Many of the

supposedly “factual” claims the WTO makes are highly contested (such as “the evidence points to trade making a major contribution to increasing standards of living and to lifting people out of poverty” and “there is no question that patent protection for pharmaceuticals has ... helped to save lives”). Yet, the contentious nature of the claims being made is suppressed by presenting them as simple and objective facts known to the WTO and communicated to the reader.

This framing of trade as a technical issue – and thus the proper domain of experts – is found throughout the discourse of trade officials. As quoted above, for example, a secretariat official referred to the Seattle protests as a “visceral reaction,” illustrating how the Cartesian divide – between reason, logic and rationality, on the one hand, and emotion and irrationality, on the other (Lloyd 1984) – is brought into play by WTO officials, used to frame trade issues and define appropriate forms of behaviour and engagement. In characterizing the Seattle protests as a “visceral” reaction (i.e., bodily, emotional, irrational), the implicit contrast is with a reasoned consideration of fact. Director-General Moore similarly wrote off the Seattle protesters as “mindless,” while another official described it as “just an *outcry* against globalization and the WTO.”⁴

This dualism, in which logic and knowledge are contrasted with emotion, irrationality, and ideology, appeared repeatedly in interviews with trade officials. One negotiator, for example, described his critics as “overly emotional.”⁵ In discussing one such “emotional” issue – high rates of farmer suicides in India that civil society actors link to trade liberalization – several negotiators rolled their eyes in disdain and made air quotes while referring to “India’s suicidal farmers.”⁶ Another official described critics of liberalization as “paranoid.”⁷ A frequent critique of any opposing position was that it was “out of touch with

⁴ *Ibid.*

⁵ Interviews, April 2009.

⁶ Interviews, September 2008-June 2009.

⁷ Interview, May 2010.

reality” or “unrealistic.”⁸ Negotiators repeatedly contrasted “mere rhetoric” with “hard research.”⁹ They were explicitly dismissive of “romantic, idealistic proposals,” as well as “more ideological actors” and “philosophical debate,” and stressed the importance of a “pragmatic” rather than “ideological stance.”¹⁰ In contrast, what trade officials indicated they value are “intellectual” contributions – “the hard, technical work, the solid contribution of ideas.”¹¹ For negotiators, a “constructive contribution” is equated not with “[ideological or political] positions or statements” but “technical or legal inputs” and the ability “to do the heavy lifting” by conducting sophisticated econometric and legal analysis and putting together “technically sound, solid” proposals.¹²

From the discourse of trade officials, it is clear that what qualifies a speaker as authoritative, and thus accords them the right to speak and be heard, is the possession of expert knowledge and sophisticated technical capabilities. As one secretariat official explicitly stated, “we respond to the most *informed* sectors [of civil society],”¹³ indicating that the WTO will not engage with civil society actors it does not consider sufficiently “informed.” Likewise, the Dialogue Text describes issues surrounding the WTO as “complex” and, in some cases, “debatable,” but only based on sophisticated “facts” and “evidence,” accessible to experts like the trade policymakers themselves. As the quotes in the previous section illustrate, WTO officials tend to believe critics of the organization simply do not understand it. In interviews, civil society’s criticism of the WTO is characterized as based on “a tremendous amount of confusion and misinformation” and “fallacious understanding.”¹⁴ Secretariat officials charged with managing its relationship

⁸ Interviews, March 2009.

⁹ Interviews, September 2008-June 2009.

¹⁰ Interviews, March 2009 and May 2010.

¹¹ Interview, May 2009.

¹² Interviews, June 2007, September 2008-June 2009, and May 2010.

¹³ Interview, June 2007.

¹⁴ *Ibid.*

with civil society consequently define their primary role as “educating” civil society about trade and the WTO. As one of its civil society liaisons put it, “we look for the things that people don’t understand and then we’ll explain what the situation is ... we want to set the record straight.”¹⁵

It is significant that officials emphasize the flow of information *outwards* from the WTO to civil society rather than the reverse: trade officials do not recognize most civil society actors as legitimate interlocutors with the potential to offer input of any value into trade debates and deliberations at the WTO. Since WTO officials are primarily preoccupied with *explaining*, they do little *listening*. At one major event organized by NGOs to facilitate dialogue between civil society and trade officials, for example, in a session with over 200 civil society representatives, then Director-General Lamy responded (at times with evident exasperation) to nearly every question or comment from civil society (ranging from the plight of poor peasant farmers vulnerable to trade liberalization to how WTO rules continue to block access to HIV/AIDS drugs) by refuting the concern being raised and repeatedly stating “that’s not what the WTO is” and “that’s not how it works.”¹⁶

The WTO’s framing of trade constructs it as a technocratic rather than political issue. Its discourse presents trade in narrowly economic terms, seemingly divorced from political questions and normative disputes. This can be seen as a strategy to “economize” (Fraser 1992), and thereby depoliticize, trade issues: casting them as technical problems for experts, rather than matters for open, public debate and diverse forms of political contestation. Indeed, one WTO publication states that a key benefit of the multilateral trading system is that “governments are shielded from lobbying” and “protectionist pressure.” (WTO 2008)

¹⁵ *Ibid.*

¹⁶ “Confronting the Global Food Challenge” Conference, Geneva, November 2008.

Trade bureaucrats are generally suspicious of politics and resistant to what is seen as “political” interference in trade policymaking (Hannah 2011).

The WTO’s framing implies that global trade regulation is simply about evaluating the facts to determine what is best for the common good. A speech by the Director-General, for example, declares that the WTO “harness[es] globalization *for the benefit of all*.” (WTO 2006) One public information document outlines the reasons why “*we’re* better off with the [WTO] system” and asserts that WTO agreements “are made in the interests of everyone.” (WTO 2008) The claim that the WTO serves the interests of the common good is ever-present. Yet, as Nancy Fraser (1992: 131) argues, “when social arrangements operate to the systemic profit of some groups of people and to the systemic detriment of others” claims to represent the common good “should be regarded with suspicion.” Certainly in the realm of trade, what constitutes the “common good” is a deeply political and contested question, inseparable from the interplay of competing interests and ideologies. Yet, trade officials tend to see their own positions as value-neutral, outside of ideology or interests, and simply based on fact. When trade officials criticize others for being “ideological,” they fail to recognize that their own faith in the power of free trade to enhance global welfare is *itself* an ideology, and one disputed by many civil society actors.

Casting trade as a technical issue has important implications for determining who can speak authoritatively and who cannot. As the quotes from officials above indicate, the political activism of civil society – colorful street protests, normative claims to social justice, and broad criticism of the neoliberal trade agenda – is seen as a troublesome and inappropriate intrusion into the realm of trade experts. Consequently, civil society actors struggle to be “taken seriously”¹⁷ at the WTO – a situation one likened to facing “a brick

¹⁷ This was mentioned repeatedly in interviews.

wall.”¹⁸ Most civil society actors thus remain highly marginalized and excluded from debates and deliberations at the WTO.

Silences in the response of the WTO

At the WTO, neoliberal doctrine has the status of orthodoxy (Eagleton-Pierce 2012). Since freeing market forces from “artificial” constraints is believed to automatically and invariably generate increased efficiency and material well-being, the goal of liberalizing trade is treated as common sense (Siles-Brügge 2013; Wilkinson 2014) – literally: according to one official publication (WTO 2015), the “economic case” for free trade is “simple” and rests on “common sense.” Trade, it maintains, works to “sharpen competition, motivate innovation and breed success.” Conversely, policies that deviate from the principles of free markets are “self-defeating and destructive,” leading to “bloated, inefficient producers supplying consumers with outdated, unattractive products,” such that ultimately “factories close and jobs are lost” and “markets contract and world economic activity is reduced.” Likewise, another publication states that the WTO “helps promote peace,” “cuts the costs of living,” “raises incomes,” “stimulates economic growth,” and “makes life more efficient,” among other benefits (WTO 2008). These purported “virtues” serve as a key source of legitimation and justification for the WTO and its project of continued trade liberalization (WTO 2006).

Throughout its discourse, the WTO presents trade liberalization as an unambiguous good. But this idealized construction of trade liberalization is built upon a discernable pattern of silences. These silences become strikingly apparent when we examine the WTO’s attempt to respond directly to the issues and concerns raised by civil society, as in the Dialogue Text. Such silences take two forms: evading the issue being raised and redirecting to another topic

¹⁸ Interview, June 2007.

to present a more favorable case, and omitting facts that would disrupt a pro-WTO, pro-free trade narrative.

An analysis of these silences in the WTO's discourse – what could have been said but was not, and to what effect – offers important insight into the nature of its engagement with civil society and the prospects for open and meaningful dialogue. Examining the Dialogue Text, for example, in one exchange, civil society raises the following concerns:

The WTO only serves the interests of multinational corporations: The WTO is not a democratic institution, and yet its policies impact all aspects of society and the planet. The WTO rules are written by and for corporations with inside access to the negotiations...

Although the central issue being raised by civil society relates to the influence of business actors at the WTO, this is largely elided in the WTO's response, which seeks to assert its democratic credentials by focusing primarily on inter-state relations within the institution.

The WTO's response begins by stating: "The WTO is as democratic as its member governments; and between the members it is ultra-democratic because decisions are taken by consensus – all members have to be persuaded." Yet, the WTO is silent on how this "consensus" is achieved. As considerable scholarship has documented, decision-making within the institution frequently comes down to a "raw use of power" with outcomes reflecting underlying power imbalances among states; the WTO's consensus-based decision-making process is accordingly best described as a form of "organized hypocrisy" that serves to legitimate WTO outcomes (Steinberg 2002). For its entire history, the multilateral trading system has been dominated by the US, EU and a small group of other powerful states (Kelly and Grant 2005; Hopewell 2015a). Key negotiations take place in informal "green room" negotiations amongst a few core participants, with agreements presented to the rest of the membership as a *fait accompli*. The major powers have structured WTO rules to suit their own interests, while the vast majority of states lack the power to influence negotiating outcomes, or even what issues get on the table. The WTO/GATT has long been criticized for

failing to address the concerns of developing countries: in the last Uruguay Round of trade negotiations, the US and other rich countries made major gains at the expense of developing countries, using arm-twisting and the threat of unilateral trade sanctions to force them to “consent” to the agreement (Shadlen 2005; Gallagher 2008). There are also major questions about the democratic accountability of the WTO dispute settlement system, given that the authority of dispute panels made up of appointed trade lawyers and experts can supersede that of democratically-elected member states, forcing the reversal of national laws and regulations (Mortensen 2006). There are thus major silences in the WTO’s assertion that it is “ultra-democratic.”

This pattern of silences continues in the next section of the WTO’s response, which states:

The rules are written by member governments, no one else has access to the negotiations.

However, governments, which are elected democratically by their citizens, do take into account the views of various groups in their societies. How they do that is up to them and their citizens. Governments regularly cite pressure from consumer, environmental, human rights and labour organizations, as well as business. The structure of negotiations also helps governments strike a more equitable balance between various interest groups over a broad range of issues.

Such claims are frequently repeated in other documents, where the WTO specifically identifies one of its benefits as helping to reduce the power of lobbyists and special interest groups – that it “shields governments from lobbying” by “narrow interest groups” and enables them to “ward off powerful lobbies.”(WTO 2008)

The WTO is silent, however, on the huge corporate presence at the negotiations. Business actors, while excluded from the actual negotiating rooms, descend *en masse* on the negotiations and are in constant contact with negotiators throughout, and there is considerable evidence that business actors have a major impact on the agreements. In the Uruguay Round, for example, American multinationals were the driving force behind the creation of the

agreements on services, intellectual property, investment and agriculture, which were concluded against the will of many developing countries (Sell 2006; McMichael 1998). During negotiations on the financial services agreement, US giants Citicorp, Goldman Sachs, Merrill Lynch and various insurance companies set up command posts near the WTO and conferred with American officials throughout (Sell 2006). In addition, contrary to the claim that “no one else has access to the negotiations,” business actors do, in fact, attend negotiating sessions as part of member-state delegations (Hopewell 2013). Similar influence is evident in dispute settlement. In the EU banana case, for example, although few bananas are produced in the US, the American government was persuaded by the ‘Big Three’ – Chiquita, Del Monte and Dole – to launch an attack on the EU banana regime, which gave preferential access to otherwise uncompetitive African and Caribbean banana producers (Mortensen 2006). As Sauvé and Subramanian (2001: 19) state, “the [WTO] system is ultimately powered and driven by private sector interests that seek market opening abroad.” Yet, the WTO’s response – and its claims to democratic legitimacy – entirely evades the concerns about corporate influence being raised by civil society.

Lastly, the WTO responds by stating that “Before they take effect, WTO rules and agreements are approved by all national parliaments.” However, the implication that ratification of WTO rules and agreements by national parliaments serves to ensure their democratic legitimacy is also based on a significant omission: the fact that, for most countries, ratification amounts to no more than a rubber stamp (Kapoor 2004). In the case of the Uruguay Round and the resulting set of agreements that created the WTO, for example, most legislatures faced a Hobson’s choice of either ratifying the agreements or losing their existing access to foreign markets based on earlier GATT agreements, with potentially dire economic consequences (Steinberg 2002).

Similar patterns are evident in the responses the WTO provides to other civil society concerns elsewhere in the Dialogue Text. Just as it is silent on important questions regarding the decision-making process at the WTO, it is equally silent on issues related to the outcomes of trade liberalization. Another concern being raised by civil society is that free trade has not benefited the majority of the world's population and that inequality has worsened:

The WTO is increasing inequality: Free trade is not working for the majority of the world. During the most recent period of rapid growth in global trade and investment — 1960 to 1998 — inequality worsened both internationally and within countries. The UN Development Program reports that the richest 20 percent of the world's population consume 86 percent of the world's resources while the poorest 80 percent consume just 14 percent. WTO rules have hastened these trends...

There is, indeed, considerable evidence to support this claim that global income inequality has risen during recent decades of trade liberalization and other neoliberal economic policies (UN 2005; Wade 2011).

However, while civil society is calling for a discussion of the effects of trade liberalization on inequality, once again, the WTO's response attempts to shut down rather than open and facilitate such a dialogue. In its response, the WTO sidesteps the central issue being raised by civil society – inequality – and instead shifts to another issue – poverty. Despite the fact that poverty is not even mentioned in the critics' argument, it is the focus of the WTO's response, which states that “All the evidence points to trade making a major contribution to increasing standards of living and to lifting people out of poverty. The majority would almost certainly be poorer if there had been no trade liberalization and no international trade rules.” It even goes so far as to suggest that arguing against liberalization “amounts to arguing that the poorest people in the world should be kept poor.” Similar claims are common in the WTO's discourse: in a recent speech, for example, Director-General Azevedo maintained that trade liberalization: “affects the poorest the most. By boosting development, trade has helped to cut poverty around the world.”(WTO 2014)

This position is in keeping with the standard neoliberal argument that free trade promotes economic growth and therefore raises incomes and reduces poverty. However, the assertion that trade liberalization will automatically produce economic growth, reduced poverty and development – what Dani Rodrik (2009) calls a “utopian vision” – is highly suspect. For many developing countries, the effects of trade liberalization and associated neoliberal policies in the 1980s and 1990s were profoundly negative – resulting in one and sometimes two “lost decades” of dismal growth performance and worsening income inequality and poverty (Monga and Lin 2015; Stiglitz et al 2013). There is growing recognition that trade liberalization cannot be counted on to provide economic growth, and growth alone is far from sufficient for poverty reduction (Stiglitz et al 2013). Furthermore, evaluations of GATT/WTO agreements to date suggest that they have disproportionately benefited rich, advanced-industrialized states (Wilkinson 2014).

In sum, the WTO’s response to civil society displays a telling patterns of silences. The arguments being made by civil society are simply not registering in the WTO’s response. The WTO is talking past its critics, ignoring the concerns they are raising. In the first example, the primary argument being made by critics relates to how decisions are made at the WTO and who is able to influence them, and thus who it is that is driving the process of trade liberalization. However, the WTO elides rather than answers civil society’s arguments about decision-making at the WTO and completely takes the issue of power imbalances – both among states and between business and civil society – out of the picture. Its response serves to deny the existence of power in the international system and its role in shaping the rules of the international trading system. Similarly, in the second example, the WTO evades the questions being raised by its civil society critics about inequality and the distributional implications of trade liberalization, and even when it reframes the issue, there are selective omissions in its characterization of the effects of trade liberalization on poverty. These

silences in the WTO's rebuttal – the parts of the critics' arguments it does not even begin to address – are significant in that they reveal a profound unwillingness on the part of the WTO to engage in genuine dialogue with actors voicing criticism of the neoliberal orthodoxy.

Conclusion

In this analysis, I have shown how exclusionary practices operate in and through the discourse of the WTO. The WTO discursively positions itself as open, neutral, unbiased, and expert, while discrediting and discouraging challenges and contestation from civil society. Its response to civil society is one of defense rather than dialogue, lessening the likelihood that issues raised by civil society will be brought into WTO debates on trade issues. At the same time, the WTO frames the debates surrounding it as issues of fact, evidence and expertise, and therefore works to construct trade as a technical/managerial rather than political issue. This functions to depoliticize trade issues, removing them from the realm of public debate. In addition, the WTO's response to its civil society critics is frequently evasive and fails to address many of their key concerns. Combined, these discursive techniques reinforce rather than dismantle hierarchical power relations between the WTO and civil society and discourage dialogue with civil society and its inclusive participation in trade policy debates and deliberations. Efforts to open the policymaking process and to render it more transparent, participatory, and inclusive are in fact undermined by the discourse of the WTO.

Analysis of the WTO's discourse shows the neoliberal orthodoxy at work in the global trade regime – and why it is so difficult for civil society to penetrate. Although the current Doha Round of trade negotiations has become blocked by a stalemate between the traditional powers – the US and EU – and emerging challengers – China, India and Brazil – over the relative concessions to be made by each side (Hopewell 2015a), the negotiations continue and the WTO's existing rules and dispute settlement procedures remain in force and actively in use. Meanwhile, a substantial amount of negotiating activity has shifted to

bilateral and regional trade agreements. Many negotiators have moved from the WTO to work on these other agreements, and similar dynamics are likely to be present in their interaction with civil society.

Existing scholarship has stressed the need to incorporate civil society as a means of democratizing global governance, and international institutions have eagerly publicized their new initiatives directed at civil society. However, this study provides reason to be cautious in our assessment of how effective such mechanisms are in fostering meaningful dialogue with civil society and enabling alternative perspectives to be incorporated into the policymaking process. The case of the WTO suggests that in order to understand the prospects for more deliberatively democratic global governance, it is not sufficient to solely examine formal, institutional structures. Discourse analysis adds valuable insights missing from a strictly institutional approach by pointing to the existence of important barriers operating at the discursive level. Analysis of the WTO underscores the importance of discursive constraints that may impede civil society participation in global governance.

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